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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7697/2025

MRS SWATI DEVI

.....Petitioner

Through: Mr. Javed Hasan and Ms. Aliya Rizvi,
Advocates along with petitioner in
person.

versus

GNCTD & ORS.

.....Respondent

Through: Ms. Nitika Bhutani, Panel Counsel for
R-1/GNCTD.
Mr. Farman Ali, SPC along with Mr.
Amit Gupta, SPC and Ms. Usha
Jamnal, Advocates for
R-2/Safdarjung Hospital.
Mr. V. S. R. Krihna and Mr. V.
Shashank Kumar, Advocates for
AIIMS.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

29.05.2025

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1. The petitioner has filed the present petition, inter alia, praying as
under -

*“a) For a writ of mandamus or any other writ, order, directing the
Respondents to allow the Petitioner to undergo Medical Termination of
the Pregnancy.*

*b) For an order directing the Respondent No. 3 for setting up an expert
panel of doctors to assess the pregnancy and offer MTP to the petitioner
in need of the procedure beyond the prescribed 20 weeks limit.”*

2. The petitioner is a citizen of India, having her permanent address at
Ward No. 1, Behror, District Kotputli, Behror, Rajasthan – 301701.
Presently, she is residing in Delhi due to her husband's employment with the



Delhi Police.

3. The petitioner has approached this Court, seeking urgent medical relief owing to her high risk pregnancy which has exceeded 24 weeks of gestation.

4. The factual background leading to the filing of the present petition is that the petitioner, aged 39 years, is a patient of chronic kidney disease, for which she has been under consistent treatment at Medanta Hospital, Gurugram, Haryana for more than a year. Due to the kidney condition her menstrual cycle had ceased approximately 5–6 months ago. She had informed her treating doctors about this, but was advised that it was a common consequence of her ongoing kidney treatment and did not indicate pregnancy.

5. The petitioner came to know of her pregnancy only when she underwent an ultrasound at a Government Hospital in Behror on 22.04.2025. It is submitted that thereafter, she approached Safdarjung Hospital, New Delhi. Over the next few weeks, the respondent no. 2/ Safdarjung Hospital conducted a series of medical tests, and eventually, on 19.05.2025, the doctors concluded that continuing the pregnancy posed a serious risk to the petitioner's life, given her underlying kidney condition.

6. On 19.05.2025, the petitioner was found to be 27 weeks pregnant. The doctors at respondent no. 2 opined that Medical Termination of the Pregnancy (MTP) was medically advisable, but expressed their inability to proceed due to the statutory restrictions provided under Section 3(2) of Medical Termination of Pregnancy Act, 1971, which limits such procedures to 20 weeks in ordinary cases, and 24 weeks in certain categories such as rape survivors, etc.. Section 3 (2) of the Medical Termination of the



Pregnancy Act, 1971 is reproduced as under –

“In Section 3 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,—

(a) where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are,

of the opinion, formed in good faith, that—

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

Explanation 1.—For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.—For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.”

7. The petitioner’s case is a medical emergency, where her own life is in danger, even if no foetal abnormality has been diagnosed.
8. Hence the petitioner has now approached this Court under Article 226 of the Constitution of India.
9. Issue notice.
10. Learned counsel, as aforesaid, accepts notice on behalf of the



respondents.

11. Dr. Jyosna Suri, officiating head of Obstetrics and Gynaecology department at Safdarjung Hospital, appears *via* video conferencing and states that the petitioner is suffering from chronic kidney disease. In view of the petitioner's medical condition, it is stated that MTP may be warranted.

12. In ***X v. Union of India and Anr.***, 2023 INSC 919, the Supreme Court has observed as under -

“B. Medical termination of pregnancies

13. *The termination of pregnancies is governed by the MTP Act and the rules framed under it. The MTP Act is a progressive legislation which regulates the manner in which pregnancies may be terminated. Section 3 spells out certain conditions which must be satisfied before a pregnancy can be terminated. The conditions depend upon the length of the pregnancy. Where the length of the pregnancy does not exceed twenty weeks, one Registered Medical Practitioner must be of the opinion, formed in good faith, that:*

a. The continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health. The anguish caused by a pregnancy which occurs due to the failure of a contraceptive method is presumed to constitute a grave injury to the mental health of the woman; or

b. There is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality. Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy is presumed to constitute a grave injury to the mental health of the woman. The presumption adverted to in (a) above makes it evident that the MTP Act recognizes the autonomy of the pregnant woman and respects her right to choose the course of her life.

14. *Where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks, two RMPs must be of the opinion discussed in the preceding paragraph. The categories of women where a pregnancy beyond 20 weeks and up to 24 weeks may be terminated are permitted to be prescribed by rules made by the delegate of the legislature. Rule 3B of the MTP Rules (as amended in 2021) provides grounds for the termination of a pregnancy up to twenty-four weeks. The termination may be allowed in the following cases or for the following persons:*



- a. Survivors of sexual assault or rape or incest;
- b. Minors;
- c. Change of marital status during the ongoing pregnancy (widowhood and divorce);
- d. Women with physical disabilities with a major disability in terms of the criteria laid down under the Rights of Persons with Disabilities Act 2016;
- e. Mentally ill women including mental retardation;
- f. Foetal malformation that has a substantial risk of being incompatible with life or where in the event of birth, the child may suffer from physical or mental abnormalities and be seriously handicapped; and
- g. Women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the Government.

In X v. Principal Secretary, Department of Health and Family Welfare, GNCTD, 13 this Court held that the benefits of Rule 3B(c) extend equally to both single and married women and that the benefits of Rule 3B extend to all women who undergo a change in their material circumstances.

15. Significantly, if in the opinion of an RMP, the termination of a pregnancy is immediately necessary to save the life of a pregnant woman, the provisions of Section 3 which relate to the length of the pregnancy and the opinion of two RMPs shall not apply. Section 4 (which concerns the place at which a pregnancy may be terminated) shall not apply to such cases as well. The design of the statute makes it evident that saving the life of the pregnant woman is of paramount importance, notwithstanding the length of the pregnancy.”

13. Considering the circumstances of the case, it is directed that a Medical Board be constituted at the Safdarjung hospital for the examination of the petitioner, for the purpose of assessing whether the present case qualifies for medical termination of pregnancy under the Medical Termination of Pregnancy Act, 1971. Let the petitioner be examined by the Medical Board tomorrow i.e. 30.05.2025.
14. In case the Medical Board opines that termination of the pregnancy is warranted in the present case, the hospital shall forthwith proceed with



termination of the pregnancy of the petitioner.

15. The present petition is disposed of in the above terms.

16. A copy of this order be given *dasti* under the signature of Court Master.

SACHIN DATTA, J

MAY 29, 2025/sv